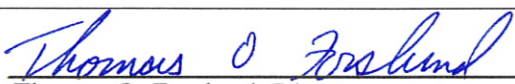


Thomas O. Forslund, Director

Governor Matthew H. Mead

Policy Title:	Business Associate Agreements and Other Arrangements
Policy Number:	AS-020
Effective Date:	July 1, 2013
Approval:	<div><div> Thomas O. Forslund, Director</div><div><u>5/21/13</u> Date</div></div>

Purpose:

This policy establishes Wyoming Department of Health's (WDH) responsibility to implement business associate agreements (BAA) or other arrangements, as necessary and appropriate.

Scope:

This policy applies to all WDH workforce.

Definitions:

Business Associate generally means a person or entity who, on behalf of a covered entity, but other than in the capacity of a member of the workforce of such covered entity, creates, receives, maintains, or transmits protected health information (PHI) in the course of providing certain services for or on behalf of a covered entity. (For the complete definition, please consult 45 CFR § 160.103).

Protected Health Information generally means identifiable or potentially identifiable health information that is transmitted or maintained in electronic media or any other form or medium. (For the complete definition, please consult 45 CFR § 160.103).

Workforce means employees, volunteers, trainees, and other persons whose conduct, in the performance of work for a covered entity, is under the direct control of such entity, whether or not they are paid by the covered entity.

Policy:**1. General**

- a. In order to memorialize the contractual obligations of its business associates and to obtain satisfactory assurances, as required by the Privacy and Security Rules, that its business associates will appropriately safeguard WDH's PHI, WDH shall implement a BAA or other arrangement with any person or entity who meets the definition of a business associate.
- b. A list of services that typically qualify a person or entity as a business associate is found in the definition of business associate at 45 CFR § 160.103.
- c. WDH divisions/programs/facilities shall track business associates and BAAs or other arrangements by, at a minimum, maintaining a Form F-025, Business Associate Inventory. WDH divisions/programs/facilities shall provide a copy of the Form F-025 to the WDH Compliance Office or its designee upon request.
- d. The WDH Compliance Office shall audit a reasonable number of BAAs or other arrangements, as necessary and appropriate.
- e. The WDH Compliance Office or its designee shall be available, as necessary, for consultation regarding business associates, business associate agreements, or other arrangements.

2. Business Associate Agreements

- a. WDH divisions/programs/facilities shall implement BAAs, as necessary and appropriate, before a business associate begins services pursuant to which it may create, receive, maintain, or transmit WDH's PHI.
- b. If WDH enters into a written contract with a business associate for the business associate's services, an attachment BAA shall attach directly to the contract for services as Attachment B (exceptions may apply to the attachment letter).
- c. If no written contract applies, a stand-alone BAA shall be executed.
- d. WDH divisions/programs/facilities shall utilize the most current version of the stand-alone or attachment BAA template.
- e. BAA templates shall contain all elements required by 45 CFR § 164.504(e)(2).

3. Qualified Service Organization Agreements

- a. A qualified service organization (QSO) is a business associate that provides substance abuse and alcohol treatment services. A QSO agreement is a BAA that includes additional provisions required by 42 CFR Part 2.
- b. WDH divisions/programs/facilities shall implement QSO agreements, as necessary and appropriate, before a QSO business associate begins services pursuant to which it may create, receive, maintain, or transmit WDH's PHI.
- c. If WDH enters into a written contract with a QSO business associate for the QSO business associate's services, an attachment QSO agreement shall attach directly to the contract for services as Attachment B (exceptions may apply to the attachment letter).
- d. If no written contract applies, a stand-alone QSO agreement shall be executed.
- e. WDH divisions/programs/facilities shall utilize the most current version of the stand-alone or attachment QSO agreement template.
- f. QSO agreement templates shall contain all elements required by both 45 CFR § 164.504(e)(2) and 42 CFR Part 2.

4. Other Arrangements

- a. If WDH contracts with a business associate that is another governmental entity, it may satisfy the Privacy and Security Rules by executing a memorandum of understanding (MOU) that contains all elements required by 45 CFR § 164.504(e)(2) (and 42 CFR Part 2, if the business associate is a QSO).
- b. WDH divisions/programs/facilities shall attach attachment BAAs or QSO agreements to written MOUs it implements with business associates or QSOs that are governmental entities.

5. Non-compliance

- a. WDH divisions/programs/facilities shall report to the WDH Compliance Office any known patterns of activity or practice by a business associate that constitute a material breach or violation of the business associate's obligations under the BAA, QSO agreement, or other agreement. In turn, the WDH Compliance Office shall take reasonable steps to cure the breach or end the violation, and, if such steps are unsuccessful, terminate the agreement or other arrangement, if feasible.
- b. The WDH Compliance Office may report the business associate's breach or violation to the U.S. Department of Health and Human Services, Office for Civil Rights.

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Forms and Agreements:

Stand-alone BAA and QSO templates
Attachment BAA and QSO templates
F-025; Business Associate Inventory

Policies:**References:**

45 CFR § 160.103
45 CFR § 164.308(b)
45 CFR § 164.314(a)
45 CFR §§ 164.502(a)(3) and (4) and (e)
45 CFR § 164.504(e)

Training: